



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	4 VAC 15
VAC Chapter Number:	400
Regulation Title:	Watercraft: Accident and Casualty Reporting
Action Title:	Retain regulation
Date:	March 19, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation provides for a uniform recreational boating accident and casualty reporting system at the state level that is in compliance with federal law and the Code of Virginia.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 29.1-739.B of the Code of Virginia. Duty of operator involved in collision, accident or other casualty; immunity from liability; report of collision, etc.; summons in lieu of arrest. The Code of Virginia requires accident and other casualty reporting to the Department of Game and Inland Fisheries and authorizes regulations. Minimum federal reporting requirements are established in 33 CFR Ch.1. Part 173 Subpart C, and federal requirements for a state reporting system are established in 33 CFR Ch.1. Part 174 Subpart C. A marine casualty reporting is also a component of Virginia's Memorandum of Agreement with the U.S. Coast Guard.

State or federal law or regulation does not mandate this regulation. Accident and casualty reporting requirements apply to all watercraft used for recreational purposes or that is required to be numbered (registered). This regulation does not exceed minimum requirements.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No citizen comments were received by mail, email, or other channels regarding this regulation during the announced periodic review comment period as provided in the Notice of Periodic Review published in the *Virginia Register of Regulations*. The comment period closed Tuesday, January 9, at 5 p.m. No informal advisory group was formed nor is advisory group formation planned.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

This regulation is intended to achieve the goal of uniform boating accident and casualty reporting requirements which comply with federal laws and regulations, and that enable law enforcement authorities to effectively investigate the circumstances when accidents and fatalities occur.

The regulation is effective in obtaining the needed information on accidents that are reported. It is essential to protecting citizen welfare within the recreational boating community. It fully implements an immediate notification process in the event of an occurrence involving loss of life or disappearance. Specific requirements are provided that would facilitate investigation of such an occurrence. This regulation is essential for the efficient and economical performance of the governmental function of public safety and the boating education initiatives developed in response to accident data and information. Preventative measures to minimize accidents can be

developed and implemented in accordance with insights gained from the accident reporting system.

This regulation adopts applicable Federal regulations for uniform casualty reporting. The regulation is clear and readily understood by boaters of the Commonwealth and by boaters visiting from other states.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Alternatives Considered:

Alternative 1: No state regulation in place.

Description: Leave this activity unregulated by the state.

Level of burden to the public: Having no state regulation for this function would pose the least burden on the boating public from state government authority. With no state accident and casualty reporting system, recreational boaters would have to report to the federal government. There is no indication that this would be less intrusive or more clearly understood.

Satisfies essential government function: Yes. Effective accident and casualty reporting at the state or federal level enables analysis of the causes of accidents and deaths, and allows appropriate measures to be implemented to reduce accidents, suffering, and death.

Discussion: Alternative 1 was rejected because it would not improve boating safety and it would probably increase the burden on the public. Having this regulation is essentially an "either/or" decision; either the State is in compliance with the federal requirement and is, therefore, in position to be the issuing and reporting authority as an approved numbering state for recreational boating *or* this authority will be exercised at the federal level.

Alternative 2: Regulation as currently exists.

Description: Apply minimal requirements established by federal regulation for accident and casualty reporting.

Level of burden to the public: The existing regulation places only a low to moderate burden on the boating public and only that which is essential to boating safety. It provides a local avenue for required reporting.

Satisfies essential government function: Yes. Effective accident and casualty reporting at the state level enables analysis of the causes of accidents and deaths, and allows appropriate measures to be implemented to reduce accidents, suffering, and death.

Discussion: The regulation as in effect is the preferred alternative and places a low burden on boaters. Adoption of this regulation by the Board of Game and Inland

Fisheries, at a level no more excessive than minimally required by federal law, positions the State to be directly involved in and responsive to issues of concern to the recreational boater in Virginia.

Alternative 3: Higher level of regulation than currently is in effect.

Description: Accident and casualty reporting deadlines would be shortened, thresholds lowered, or reporting requirements increased.

Level of burden to the public: High.

Satisfies essential government function: Yes. Faster and more detailed reporting could enhance accident analysis.

Discussion: Boating accident rates are already declining; this at a time when boating participation is growing but the amount of boating water is not. Additional regulation is not warranted at this time.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation stay in effect without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Reducing boater injury, loss of life, and economic costs associated with accidents should all support the institution of the family. Accident investigation and reporting provides a mechanism to accomplishing these reductions.

In return for this low level of imposition and interference, accident reporting regulations provide the rules needed to help ensure the safety of citizens on Virginia waters. Private businesses that sell boats, marine equipment, and provide other goods and services related to the boating industry all benefit from compliance. Commercial navigation is also benefited. Families are strengthened by the economic returns from the industry. In addition, boating is a family affair and affords the opportunity strengthen family relationships through shared outdoor activity.

Boating participation and boating tourism are enhanced both by the public's perception that safe boating conditions exist on Virginia's waterways. Safe waterways support boating tourism and the associated economic benefits flowing to the private enterprises that serve that market. Jobs created by tourism support economic stability for families profiting from tourism.

This regulation has minimal impacts on the authority and rights of parents in the education, nurturing and supervision of their children. It has little impact on encouraging or discouraging economic self-sufficiency, self-pride or the assumption of responsibility for oneself or family members. The marital commitment is unaffected by this regulation.

This regulation does encourage economic self-sufficiency by providing jobs related to the watercraft industry that may not otherwise be available if Virginia's waterways were deemed unsafe for recreational boating.